

### **REMARKS**

This is a full and timely response to the Office Action of May 1, 2007. By the present Amendment, the claims have been amended to more particularly and distinctly point out the subject matter of the present invention. Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

By the present Amendment, claims 1, 2, 13, 15 and 25 have been amended, and support for these claim amendments is found throughout the specification and examples therein, and particularly on pages 18-22 and 24-31 therein and associated drawing figures. No new matter is believed to have been added. Additionally, the numbering of two claim 19's and no claim 23 has been corrected by the present amendment.

### **Response to Claim Objections**

On page 2 of the Office Action, the Examiner has objected to the claims as including two number 19's and missing number 23. By the present amendment, the numbering has been corrected by amending the second claim 19 to be inserted as claim 23.

### **Response to 35 USC § 112 rejections**

On page 2 of the Office Action, the Examiner has rejected claims 1-12 under 35 USC § 112 as being indefinite. By the present Amendment, Applicant submits that claim 1 as amended is clearly directed to the method claimed, and Applicant respectfully requests that this rejection be withdrawn.

On page 3 of the Office Action, the Examiner has rejected claims 13-24 under 35 USC § 112 as being indefinite. Applicant submits that claims 13-24 in their presently amended form are compliant with 35 USC §112 in all respects and respectfully requests that this rejection be withdrawn as well.

#### **Response to 35 USC § 101 rejections**

On page 3 of the Office Action, the Examiner has rejected claims 1-12 under 35 USC § 101 as being related to non-statutory subject matter. By the present Amendment, Applicant submits that claim 1 as amended is clearly directed to the method claimed, and Applicant respectfully requests that this rejection be withdrawn.

#### **Response to 35 USC § 102 rejections**

On pages 4 through 12 of the Office Action, the Examiner has rejected claims 1-25 under 35 USC § 102(b) based on U.S. Patent Application Publication No. 2002/0107703 to Feinberg et al. (hereinafter “Feinberg”). Based on the above amendments and the present remarks, Applicant submits that these rejections have been traversed.

The present invention

As described in the specification for the present application, the present invention provides in part a release tracking system that not only receives, stores and manages information relating to multiple real estate liens, title and financial transactions in multiple jurisdictions, but also tracks note payoffs and lien releases to provide a variety of benefits to numerous parties. Lenders, borrowers,

buyers, settlement agents and title insurers alike all benefit as a result. By tracking, reporting and preparing documents to facilitate lien release, the present invention facilitates the removal of liens recorded against a borrower's property and the recordation of liens against the buyer's property. For a settlement agent, the present invention assists in post-closing processing of lien releases and recordations so that the settlement agent can safely close his or her files.

It will be appreciated that the present invention does not merely assist in the tracking of notes underlying the liens. As described in the specification of the present application, there are two very different documents associated with the real estate transactions contemplated as part of the present invention. There are liens (also called deeds of trust) which are typically recorded with the court house in the jurisdiction in which the property lies, and there are notes, which are the paper documents underlying the lien that can be bought, sold, transferred, securitized and so forth in accordance with market custom. Banks that underwrite mortgage loans try to reduce their costs of managing the notes, and will typically have an internal or external reconveyance department for this purpose. Servicing agencies can also be employed on behalf of note holders to assist with re-payment and enforcement of note terms. Importantly, these types of services pertaining to the notes correspond to enforcement *against the obligor* (i.e., the borrower of funds) and not the lender. Further, while notes can be tracked to determine who ultimately holds a note at the time a payoff is to occur, the note tracking entities consider their task finished once the current note holder is identified.

By contrast, the present invention as claimed pertains to what happens *after* the note has been satisfied (i.e., the note holder is identified, and the note is paid off by or on behalf of the

borrower such that the note holder is no longer owed any monies). It is at this stage that the lien must be released so that the new and proper title can be correctly recorded. In focusing on these aspects, the present invention is not concerned with enforcing against the obligor on behalf of the lender. Rather, the present invention is concerned with enforcing against the lender on behalf of the obligor, settlement agencies and title insurers, for example.

Consistent with these aspects of the present invention, claim 1 has been amended to recite that the method claimed therein comprises providing a *lien release* tracking component for *tracking one or more liens where a note underlying the one or more liens has been satisfied* but the one or more liens have not been released, providing a lien holder interface in communication with the lien release tracking component, receiving by the lien holder interface from the lien release tracking component, a notice associated with the lien and generating a document associated with the notice as claimed. Claim 2 has been amended to recite that, where the notice indicates that a note underlying the lien has a paid status but the lien has not been released, the document generated is a release instrument.

Support for the claim amendments shown is found, for example, on pages 1-2, 7-9, 18-22 and 24-31 of the specification as filed, and associated drawing figures. No new matter is believed to have been added.

The Feinberg reference

The Feinberg reference pertains to a lien information management system directed to the basic components of the lien and release preparation and recordation processes. The Feinberg

reference describes a medical lien recordation and post-payment release recordation process (see paragraphs [0011-0016] wherein the lien release is prepared and recorded once the lien holder has been paid [0016]. The Feinberg system does not address the situation in the real estate context where there is a settlement agent without authority to release a lien on behalf of a payoff lender. Accordingly, Feinberg is noticeably void of any components or elements constituting a lien release tracking component or a lien holder interface in communication with the lien release tracking component as claimed in amended claim 1. There is simply no discussion, mention or teaching of such actions, and Feinberg obviously did not contemplate such actions because the Feinberg reference is directed to medical liens and to a lesser extent, construction liens.

In order for a reference to qualify as prior art under 35 USC § 102, the reference must teach each element of the claim. See *Manual of Patent Examining Procedure (MPEP) § 2131* and cases cited therein. For at least the above reasons, Applicant respectfully submits that there is nothing in Feinberg that teaches or suggests that the invention as presently claimed.

With regard to amended claim 13, there is nothing in Feinberg or any other reference of record that teaches or suggests the system for responding to a notice that a lien is due for release as claimed, including the lien management component, lien release tracking component, the interface allowing for receipt of the claimed notice including status information pertaining to whether the lien is due or overdue for release by the lien holder, and the interface for issuing a response to the notice by the lien management component as claimed.

With regard to amended claim 25, there is nothing in Feinberg at all about receiving a payoff order for a loan, wherein the order has been issued based on a calculated trigger date indicative of when the lien is required to be released, as claimed therein. Feinberg simply does not track due or overdue lien releases, but rather only discloses recording a lien release once payment has been made to the lien holder [see paragraph 0011].

Because Feinberg does not teach each and every element of the invention as claimed in independent claims 1, 13 and 25, there can be no rejection based on 35 U.S.C. § 102. Further, because Feinberg does not suggest or provide motivation for the claimed invention, either singly or in combination with any other reference of record, there can be no rejection of these claims under 35 U.S.C. § 103. The prior art must teach or suggest *all* claim elements in order to find anticipation or obviousness, and *all* words in a claim must be considered in judging the patentability of that claim against the prior art (see MPEP §§ 706.02(j) and 2143.03). Applicant therefore respectfully submits that the invention as presently claimed is not disclosed or suggested by the prior art of record, including that as submitted with the attached information disclosure statement. Applicant further submits that each of the dependent claims is similarly allowable as being dependent from an allowable independent claim.

For the above reasons, Applicant submits that none of the cited references, taken either singly or combined, teaches or suggests the presently claimed invention, and that the rejections in the Office Action of May 1, 2007 have been traversed.

## CONCLUSION

Based on the foregoing, Applicant submits that the present application is in position for prompt adjudication and allowance. Applicant believes that all of the claims currently pending in the present application are now in condition for allowance, and an early notice to that effect is earnestly solicited.

Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the present application, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below.

A petition for three-month extension of time is accompanying this response. The Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in payment of any additional required fees, with the exception of the issue fee.

Respectfully submitted,  
WILLIAMS MULLEN, PC



Thomas F. Bergert  
Counsel for Applicant  
Reg. No. 38,076

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Thomas F. Bergert, Esq.  
Williams Mullen, PC  
8270 Greensboro Drive, Suite 700  
McLean, Virginia 22102  
(703) 760-5200  
tbergert@williamsmullen.com  
1493044